

**BEFORE THE LAND USE HEARINGS EXAMINER  
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for preliminary plat approval of a 15-lot single-family residential subdivision on approximately 2.6 acres zoned R1-6 in unincorporated Clark County, Washington.

**FINAL ORDER  
Kramer South Subdivision  
PLD2004-00068; SEP2004-00124;  
VAR2004-00017**

**I. Summary:**

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for preliminary plat and related approvals for the Kramer South Subdivision (PLD2004-00068; SEP2004-00124; VAR2004-00017) – a 15-lot single-family residential subdivision on approximately 2.6 acres zoned R1-6.

**II. Introduction to the Property and Application:**

**Applicant**..... Kimball Hill Homes  
6014 NE 124<sup>th</sup> Court  
Vancouver, WA 989682

**Contact**..... Minister & Glaeser Surveying, Inc.  
Attn: Nicolle Sicilia, Project Planner  
2200 E. Evergreen Blvd.  
Vancouver, WA 98661

**Owner** ..... Richard & Valerie Hooks  
4309 NE 92<sup>nd</sup> Street  
Vancouver, WA 98665

**Property** ..... Legal Description: Parcel Number 97382-000 located in the NE ¼ of Section 1, Township 2 North, Range 1 East of the Willamette Meridian, Street Address: 4309 NE 92<sup>nd</sup> Street.

**Applicable Laws** ..... RCW 58.17 and Clark County Code (CCC) Chapters 15.12 (Fire Code), 40.220.010 (Residential Districts), 40.350 (Transportation), 40.350.020 (Concurrency), 40.370 (Sewer and Water), 40.380 (Storm Water and Erosion Control), 40.500 (Process), 40.540 (Land Divisions), 40.550.020 (Variances), 40.570 (SEPA), 40.610 (Impact Fees).

This application seeks preliminary plat and related approvals for a 15-Lot single-family residential subdivision on approximately 2.6 acres zoned R1-6 with a UL (Urban Low Density Residential) comprehensive plan designation. The application includes a variance to the garage front setback from the temporary turn-around for lots 11 and 12. The property consists of one tax lot (parcel number 97382-000) generally located north of NE 88<sup>th</sup> Street, west of NE 45<sup>th</sup> Avenue, south of NE 92<sup>nd</sup> Street and east of NE 41<sup>st</sup> Avenue. Surrounding parcels to the north and west are zoned R1-6 with a UL (Urban

Low Density) Comprehensive Plan designation (Exs. 3 & 4). Parcels east and south are zoned R-18, with an ML (Urban Medium Density) plan designation. All of the surrounding parcels are developed with single-family homes. There are no wetlands or other critical areas on the site or near-by. The property is within the Vancouver urban growth area, the Battle Ground School District, Fire Protection District 5, the Hazel Dell Traffic Impact Fee Subarea, Parks Improvement District 8, and the territory of the Hazel Dell Neighborhood Association. Water and sewer are provided by Clark Public Utilities and the Hazel Dell Sewer District, respectively.

The record contains a preliminary plat and related plans that are the subject of this decision (Exs. 5 & 7). Current access to the parcel is, and will remain, off of NE 92<sup>nd</sup> Street, via a cul-de-sac street (NE 44<sup>th</sup> Court) and a temporary cul-de-sac street (NE 43<sup>rd</sup> Avenue). A temporary emergency vehicle turn-around bulb is required at the southern terminus of NE 43<sup>rd</sup> Avenue, which reduces, at least temporarily, the front yard garage set back for two lots (Lots 11 & 12). This temporary reduction of the front yard garage set back necessitates the variance request (Ex. 7, tab 7).

Soils at the site are not well suited for infiltration (Ex. 7, tab 9), but it appears that the developer wants the chance to demonstrate that the soils on the site, in fact, will infiltrate a sufficient amount of water. Staff expresses strong reservations about the approach (Ex. 14) and recommends that the developer secure a right to discharge stormwater to an off-site privately-owned regional detention facility located in the southeast corner of the intersection of NE 94<sup>th</sup> Street and NE 45<sup>th</sup> Avenue and also secure a right for an piped emergency stormwater overflow along the NE 94<sup>th</sup> Street right-of-way. The regional facility was constructed to serve Kramer place, Kennedy and Avalon Hills. According to the applicant's design engineer, the facility has more than enough capacity to detain the 100-year storm event from all five of these subdivisions. County staff reviewed the preliminary stormwater plan and found that the preliminary stormwater plan and compliance with the County's stormwater requirements were feasible (Ex. 14) and recommended several conditions of approval.

The application includes a preliminary plat (Ex. 6), a narrative (Ex. 7, tab 6), variance request (Ex. 7, tab 7), a soils report and preliminary stormwater plan (Ex. 7, tab 9), a geotechnical report (Ex. 8), notes from the May 27, 2004 preapplication conference (Ex. 7, tab 4), a traffic study and circulation plan (Ex. 7, tabs 10 & 15, respectively), sewer and water provider letters (Ex. 7, tabs 12 & 13, respectively), an archaeology predetermination report (Exs. 9 & 7, tab 14), and a SEPA checklist (Ex. 7, tab 11). Included in the record are comments from the Fire Marshal (Ex. 13), county engineering (Ex. 14) and concurrency staff (Ex. 15).

### **III. Summary of the Local Proceeding and the Record:**

A preapplication conference for this subdivision was requested on May 3, 2004 and held on May 27, 2004 (Ex. 7, tab 4). A fully complete Type III application was submitted on August 2, 2004 (Ex. 10). From this, the vesting date for the development is May 3, 2004. Notice of the Type III application and a November 4, 2004 public hearing on the application was mailed to property owners within 300 feet and to the Hazel Dell Neighborhood Association on September 3, 2004 (Exs. 11 & 12). Notices were posted on the site and in the vicinity on October 20, 2004 (Ex. 19), and notice of the hearing and the SEPA Determination of Nonsignificance (DNS) were published in the Columbian on October 20, 2004 (Ex. 16). The County received no appeals and only two comments

(Exs. 20 & 21) on the SEPA Determination by the submission deadline of November 3, 2004. The two comment were from the Washington Department of Ecology (Ex. 21) and the Southwest Washington Clean Air Agency (Ex. 20), and did not warrant a response. Staff issued a comprehensive report on the project dated October 20, 2004 (Ex.17) recommending approval of the proposed subdivision with conditions.

At the commencement of the November 4<sup>th</sup> hearing, the Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Dan Carlson, County planning staff on the project, and Fereidoon Safdari, engineering staff, provided verbal summaries of the project, the staff report and the various agency and departmental comments in the record. The applicant's representatives, Nicolle Sicilia, of Minister & Glaeser Surveying, Inc., civil engineer Bill Rauch and transportation engineer David Kelly, described the project, explained details and responded to questions from the Examiner and the public. Ms. Sicilia suggested a modification to Condition A-22 related to the stormwater proposal (Ex. 22), and otherwise expressed her agreement with staff's proposed findings and conditions of approval (EX. 17).

Also testifying at the hearing in a neutral or opponent capacity were Marv Tanner (Ex. 24), a neighbor who lives south of the site on NE 45<sup>th</sup> Avenue, a private road, Curtis Achziger, the Vice President of the NE Hazel Dell Neighborhood Association, and Ralph Clark, who lives in the house on the subject property. The issues raised by these parties are discussed separately below. At the conclusion of the November 4<sup>th</sup> hearing, the Examiner closed the record and took the matter under consideration.

#### **IV. Findings:**

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding prior to the close of the record have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings.

**A. Public Testimony:** The following issues were raised by parties to the proceeding, either neutral or opposed to the application, and the Examiner adopts the following findings with regard to each:

1. Marv Tanner lives south of the property on NE 45<sup>th</sup> Avenue and submitted a letter (Ex. 24) with his oral testimony. South of the site (south of NE 92<sup>nd</sup> Street) Mr. Tanner's street is a private road, and he complained that construction traffic for Kramer Place (a subdivision recently approved across NE 92<sup>nd</sup> Street from the subject site) was using the private portion of NE 45<sup>th</sup> Avenue. By way of a short response, the issue Mr. Tanner raises is somewhat tangential to the subdivision approval criteria and not really within the Examiner's authority to address. However, it is clear that private roads are not public rights-of-way and cannot be used by the subdivision residents or construction traffic unless the development property have a recorded property interest in, and benefit from,

the private roadway. Consequently, the construction traffic of Kramer Place and the present Kramer South Subdivision cannot lawfully use NE 45<sup>th</sup> Avenue south of NE 92<sup>nd</sup> Street. Condition A-17, suggested by staff and adopted by the Examiner, addresses this issue and is designed to block all unauthorized public traffic on the private portion of NE 45<sup>th</sup> Avenue.

2. Curtis Achziger, Vice President of the NE Hazel Dell Neighborhood Association, echoed Mr. Tanner's concerns about public use of the private portion of NE 45<sup>th</sup> Avenue. Additionally, Mr. Achziger raised the following issues:

a) Adequacy of the local street system: Mr. Achziger testified that NE 45<sup>th</sup> Avenue and east-west streets that it intersects, are not adequate to handle the traffic that will be generated by this development along with traffic of other recently approved subdivisions in the area. The applicant's transportation engineer then testified that the circulation and traffic report (Ex. 7, tabs 15 & 9, respectively), which were compiled in accordance with the County's requirements, demonstrated that the local street system and all affected intersections would function adequately under the traffic that would be generated by this development, along with all recently approved, but not-yet-constructed developments. Staff confirmed this conclusion, and stated that the local circulation system was adequate.

b) Adequacy of the stormwater detention facility: Mr. Achziger testified that the private detention facility that will serve this development already receives stormwater from five other subdivisions and that the facility and the emergency overflow system may not be large enough to accommodate all of the water it will receive from these developments during a large storm event. The applicant's civil engineer, Bill Rauch testified that he designed the applicant's stormwater system (Ex. 7, tab 9) as well as the private stormwater facility that will serve this development. Mr. Rauch stated that contrary to Mr. Achziger's assertion and what staff stated in its report (Ex. 17, p 13), the private facility currently receives stormwater from only three developments (Avalon Hills, Kennedy and Kramer Place) and the NE 94<sup>th</sup> Street overflow receives flow from five developments (Avalon Hills, Kennedy, Kramer Place, Fairfield and New Valley). Mr. Rauch testified that the facility is built with far greater capacity than needed to accommodate 100% of the 100-year storm event from all four subdivisions without infiltration. He also testified that the emergency overflow system was similarly adequate to handle any stormwater that would overflow from the primary facility in an emergency situation. Finally, Mr. Rauch pointed to Condition A-25 which requires the off-site analysis that Mr. Achziger requests.

3. Ralph Clark, who lives in the house on the site, wanted assurance that he would be able to access his home during and after construction of the public improvements. Conditions during construction are difficult to predict and involve issues beyond the Examiner's authority. However, it appears relatively clear that Mr. Clark will be able to access his home via NE 92<sup>nd</sup> Street and NE 45<sup>th</sup> Avenue during and after construction.

**B. The Approval Criteria:** The following issues were addressed by County staff members, in their reports or by agency comments on the application, and the Examiner adopts the following findings with regard to each:

#### **LAND USE:**

Finding 1 – Variance Request: CCC 40.200.070(B)(3) requires a 15-foot setback for garages from temporary turnaround easements. The applicant has requested a variance to reduce the required garage setback on lots 11 and 12 from 15 feet to 11.25 feet (Ex. 7, tab 7). According to CCC 40.550.020(A)(4), this request shall be combined with the subdivision application and reviewed under a Type III process. In order to grant approval of the variance, CCC 40.550.020(A)(3) requires that the examiner find, based on substantial evidence in the record, that the applicant has sustained the burden of proving the variance complies with all of the following:

*Granting the variance(s) will not substantially detract from the livability or appearance of a residential area or from the desired character of a nonresidential area, or the variance(s) will substantially enhance the livability or appearance of a residential area or the desired character of a nonresidential area, such as by preserving or protecting significant natural, scenic, historic, cultural, open space or energy resources;*

First variance criterion: The applicant proposes to encroach into the required setback by 3.75 feet. The Examiner finds that this will not result in a difference perceptible to the eyes of neighbors or the public, and therefore will not substantially detract from the livability or appearance of the residential area. Therefore criterion (3)(a) is met.

Second variance criterion: If variances to more than one regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated. A variance to only one standard is requested, therefore there will be no cumulative effect, and criterion (3)(b) is either met or inapplicable.

Third variance criterion: Adverse impacts resulting from the variance are mitigated to the extent practical. The Examiner finds that the variance will not result in any adverse impacts that would warrant mitigation. Therefore criterion (3)(c) is met.

Fourth variance criterion: The variance does not substantially impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians, or alternative access is provided. The Examiner does not find that granting the variance would impact pedestrian or vehicular access, circulation, or safety because the garages will be separated from the temporary turnaround by 11.25 feet. Lots 11 and 12 are situated at the end of the temporary turn-around and will constitute the majority of the traffic in this area of the site. There should be little or no vehicular or pedestrian traffic that would be impacted by reducing the garage setback. According to testimony from the applicant's representative at the hearing, the sidewalk lines will continue in a straight line along NE 43<sup>rd</sup> Avenue, and also the bulb is temporary until the property to the south develops. From this, the Examiner finds that criterion (3)(d) is met.

Based on the foregoing findings, the Examiner approves the applicant's variance request to reduce the required garage setback on Lots 11 and 12 from 15 feet to 11.25 feet. In order to ensure compliance at the time of building permit application, a note shall be recorded on the final plat indicating the 11.25-foot setback for these lots. See Plat Note D-11. In all other respects this subdivision, and the development

of lots within it, shall comply with all dimensional requirements of the R1-6 zone. See Condition A-1.

Finding 2 – Existing Structures: The existing home on the property shall remain on proposed Lot 2. All accessory structures shall be removed prior to final plat approval. The attached garage on Lot 2 shall either be removed or moved to meet the required setbacks for the R1-6 zone. See Condition A-2.

Finding 3 – Landscaping Standards: According to CCC 40.520.040(A)(4)(f), land divisions are exempt from site plan review provided the applicable site plan review standards are met. Because of the zoning of the subject property and the abutting property, the landscaping standards of CCC 40.320 would apply to this development.

Table 40.320.010-1 establishes minimum buffer and landscaping requirements. Where the subject property abuts R-18 zoning to the south, a minimum 5-foot buffer landscaped to an L3 landscaping standard is required. The applicant has not submitted a landscape plan, but there appears to be sufficient room to allow compliance with this requirement. Therefore, prior to final plat approval the applicant shall submit a landscape plan that provides a minimum 5-foot buffer landscaped to an L3 landscape standard along the southern boundaries of Lots 3, 4, 5, 6, 11, & 12. See Condition A-3. The landscape buffers shall be delineated on the final plat. A covenant running with the land shall be recorded with the final plat that requires the owners of lots containing the required landscape buffers to maintain the landscaping in accordance with the approved final landscape plan. See Condition A-4. The required landscaping shall be installed prior to issuance of occupancy permits for each lot. See Condition C-1.

Finding 4 – Basic Subdivision Requirements: With conditions of approval, the Examiner finds the proposed land division will make appropriate provisions for the public health, safety, and general welfare of the community. Extension and connection of proposed residences to public sewer and water, as well as treatment of any future increase of stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact fees will also be required to contribute a proportionate share toward the costs of school, park and transportation provisions, maintenance and services.

#### **TRANSPORTATION CONCURRENCY:**

County concurrency staff has reviewed the proposed Kramer South Subdivision, consisting of 15 single family lots, including one existing home to remain (Ex. 15). The applicant's traffic study estimates the weekday AM peak hour trip generation at 11 new trips, while the PM peak hour trip generation is estimated at 15 trips (Ex. 7, tab 10). The following paragraphs document two transportation issues for the proposed development.

Finding 1 – Concurrency, Site Access: According to CCC 40.350.020B, the applicant is supposed to submit a traffic study meets the requirements of CCC 41.350.020G for corridors and intersections of regional significance. The County's Traffix™ model includes the intersections of regional significance in the area and the County's model was used to evaluate concurrency compliance. Level of Service (LOS) standards are not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and

safety problems that may occur at the site access onto NE 99<sup>th</sup> Street and NE 88<sup>th</sup> Street. The accesses appear to maintain acceptable LOS.

Finding 2 – Concurrency, Operating LOS on Corridors

The proposed development was subject to concurrency modeling, which indicates that the operating levels comply with travel speed and delay standards. The applicant shall reimburse the County for costs incurred in running the concurrency model. See condition A-5. The proposed development complies with the Concurrency Ordinance CCC 40.350.020.

Finding 3 – Safety, Traffic Signal Warrants: Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

According to CCC 40.350.030(B)(6), mitigation for off-site safety deficiencies may only be a condition of approval on development under the following circumstances: “nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.” Signal warrants are not met at any of the subject intersections analyzed in the applicant's traffic study, and no significant traffic safety hazards – existing or likely – have been identified in connection with this development.

Finding 4 – Safety, Historical Accident Situation: The applicant's traffic study analyzed the accident history at the regionally significant intersections; however, all of the historical accident rates at these intersections are below one accident per million entering vehicles. Therefore, mitigation by the applicant is not required.

Finding 5 – Traffic Controls During Construction: During site development activities, the public transportation system (roadways, sidewalks, bicycle lanes, etc.) may be impacted temporarily. In order to minimize these impacts and coordinate work occurring in the public right-of-way, the applicant will need to prepare and have approved a Traffic Control Plan. See condition B-2. The applicant shall maintain all existing signs within the public right-of-way within the limits of the development's construction until the public roads have been accepted by the County. The developer shall install and maintain temporary signs where the development's signing and striping plan shows new or modified warning or regulatory signs. New or modified temporary signing shall be installed when any connection is made to the public road network. The developer shall remove the temporary signs immediately after the County installs the permanent signing and striping.

**TRANSPORTATION:**

Finding 1 – Circulation Plan: CCC 40.350.030(B)(2) requires that the existing road system and proposed extensions provide adequate cross circulation for serving the proposed subdivision and allow the subsequent developments in the vicinity to meet these standards. The project site is located north of NE 91<sup>st</sup> Street, between NE 42<sup>nd</sup> Avenue and NE 45<sup>th</sup> Avenue. NE 45<sup>th</sup> Avenue provides access to this site from the north. Currently, the south portion of NE 45<sup>th</sup> is a private gravel road providing access for existing single family homes located to the southeast of the subject development. To the north of NE 92<sup>nd</sup> Street, 45<sup>th</sup> Avenue has been improved to meet Clark County standards as an urban local residential access street. Currently, circulation for the site is limited to NE 45<sup>th</sup> Avenue to the north as circulation to the south (private road) is not available. For the purpose of north circulation, motorists will utilize NE 45<sup>th</sup>, on-site roads within Kennedy Subdivision and then access NE 99<sup>th</sup> Street.

The applicant proposes to install a barricade at the western terminus NE 92<sup>nd</sup> near the site. The applicant has proposed a stub road, NE 43<sup>rd</sup> Avenue, to provide access to lot 3 of SP 2-362. The applicant has stated that the existing 60-foot private road easement to the west of the site through Lot 3 of SP 2-179 would be vacated when the lot develops.

NE 94<sup>th</sup> Street, a “Neighborhood Circulator” road, located north of this subdivision, will provide for east-west cross-circulation in the vicinity. NE 99<sup>th</sup> Street, a four lane minor arterial road to the north, and NE 88<sup>th</sup> Street, a two lane collector road to the south of the site, are primary east-west cross circulation roads in the area. The proposed improvement to NE 92<sup>nd</sup> Street, along with the construction of NE 44<sup>th</sup> Court and NE 43<sup>rd</sup> Avenue will provide cross circulation within the site. These improvements will also allow subsequent developments in the vicinity to meet circulation standards, and provide connectivity to the existing roads. Therefore, the proposed project meets the circulation plan requirements in CCC 40.350.030(B)(2).

Finding 2 – Roads: NE 92<sup>nd</sup> Street is classified as a “Local Residential” road, and this development is required to construct half-street improvements along this frontage because of the vehicular and pedestrian traffic it will generate. According to Standard Drawing #14, the developer shall provide the following minimum requirements along NE 92<sup>nd</sup> Street:

- minimum half-width right-of-way of 23 feet;
- minimum roadway pavement of 14 feet;
- curb & gutter;
- minimum sidewalk width of 5 feet.

The applicant proposes to complete the southern half of NE 92<sup>nd</sup> Street. The northern half of the road has already been constructed as part of the Kramer’s Place Subdivision. This development proposes to dedicate 17-feet of additional right-of-way since the Kramer’s Place Subdivision dedicated 29 feet of right-of-way. There appears to be adequate right-of-way width to construct NE 92<sup>nd</sup> Street according to design criteria for local residential access roads.



According to Standard Drawing #14, the developer is required to dedicate and construct the following minimum improvements to NE 43<sup>rd</sup> Avenue extending through the site:

- minimum right-of-way 46 feet;
- minimum roadway pavement of 28 feet;
- curb & gutter;
- minimum sidewalk width of 5 feet on both sides.

Similarly, according to Standard Drawing #29, the developer is required to dedicate and construct the following minimum improvements to NE 44<sup>th</sup> Court, the short cul-de-sac road:

- minimum right-of-way 42 feet;
- minimum roadway pavement of 24 feet;
- rolled curb & gutter AND attached thickened sidewalk per Standard Plan F18b,
- minimum sidewalk width of 5 feet.

The proposed plans show the cul-de-sac bulb dimension with an “L” curb & gutter. The proposed short cul-de-sac shall have attached thickened sidewalk per Standard Plan F18b. See Conditions A-13 & A-26.

Finding 3 – Circulation and Connections: The proposed extension of NE 43<sup>rd</sup> Avenue, south of NE 92<sup>nd</sup> Street exceeds 150 feet in length. According to CCC 40.350.030(B)(9), a temporary turnaround shall be constructed at the terminus of a road that is more than 150 feet in length and temporarily terminates at the property line. See Condition A-14. The plans show both a road stub with a barricade and temporary turnaround easement with a 45-foot radius at the terminus of NE 43<sup>rd</sup> Avenue. The parcel to the south is approximately 1.85 acres and has potential for redevelopment. However, until that time, the proposed temporary cul-de-sac provides an adequate turnaround. The future extension of NE 43<sup>rd</sup> Avenue to the south will improve circulation in the area by providing access to NE 88<sup>th</sup> Street. The applicant's plan shows a cross section for an Urban Local Residential Access road with a 16-inch cement concrete vertical or rolled curb & gutter. The proposed curb & gutter shall be constructed according to the standard curb type E-1 or A-1 per standard plan F18 or with a rolled curb and thickened edge sidewalk per standard plan F18b. See Condition A-15.

CCC 40.350.030(C)(4) requires a barricade to be placed across proposed 92<sup>nd</sup> Street at its western terminus, to prevent traffic from using the existing private roadway to the west of the subject site. The effort shall be coordinated with the property owners of Tax Lots 1/7 and Lot 3 SP 2-179. The location of the barricade and/or fence shall be reviewed and approved by the County engineering staff and the County Fire Marshal. See Condition A-16. As discussed earlier, a portion of NE 45<sup>th</sup> Avenue south of the proposed development is a private road. The road is used by existing homes located along NE 45<sup>th</sup> Avenue and north of NE 88<sup>th</sup> Street. A barricade shall be placed across existing NE 45<sup>th</sup> Avenue, to prevent traffic from using the southern private portion of the road. See Condition A-17. The barricade shall remain until further decision is made on the issues regarding the existing private road.

Finding 4 – Access: The applicant has proposed to construct on-site roads including a short cul-de-sac road (NE 44<sup>th</sup> Court) and an extension of NE 43<sup>rd</sup> Avenue to the south boundary of the development site to provide access to the 15 proposed lots. The proposed short cul-de-sac is a 24-foot paved road with 5-foot sidewalk on both sides within 42 feet of right-of-way. The northern portion of NE 44<sup>th</sup> Avenue has been constructed as part of Kramer's Place Subdivision according to design criteria for Local Residential Access Roads with 28-feet of pavement within 46-feet of right-of-way. The proposed NE 44<sup>th</sup> Court has a 4-foot offset with NE 44<sup>th</sup> Avenue.

Finding 5 – Sight Distance: The applicant has submitted a Transportation Impact Study, prepared by Kelly Engineering (Ex. 7, tab 10). The study indicates that sight distance was measured at intersections on NE 99<sup>th</sup> Street and NE 88<sup>th</sup> Street and was found to be adequate. With posted speed of 35 miles per hour on both streets, a minimum of 350 feet of sight distance is required.

Finding 6 – Pedestrian/Bicycle Circulation: Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required by CCC 40.350.010 (A) through (C). The development plans show sidewalks along the south side of NE 92<sup>nd</sup> Street and along both sides of the proposed onsite roads, NE 44<sup>th</sup> Court and NE 43<sup>rd</sup> Avenue. Bike lanes are not required for urban access roads. The proposed pedestrian and bicycle circulation for the interior of the development appear to comply with the requirements of CCC chapter 40.350. Sidewalks and bike lanes are available on NE 99<sup>th</sup> Street and NE St. Johns Road. This project proposes to construct sidewalks along NE 92<sup>nd</sup> Avenue and internal streets of the development. Staff found the proposed plan to be feasible and adequate, and the Examiner agrees. Based upon the development site characteristics, the proposed transportation plan, the requirements of the County's transportation ordinance, the above findings the Examiner concludes that the proposed preliminary transportation plan, subject to Conditions A-13 through A-17, meets the requirements of the county transportation ordinance.

## **STORMWATER:**

Finding 1 – Applicability: The Stormwater and Erosion Control Ordinance, CCC chapter 40.380, adopted July 28, 2000, applies to development activities that result in 2,000 sf or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities, except those exempt by CCC 40.380.030. The proposed development will create more than 2,000 sf of impervious surface (roofs, driveways, and roads & sidewalks). Approximately 1.19 acres of new impervious surface areas will be created when the development is completed. The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.020. This project is subject to, and shall comply with, the erosion control ordinance.

Finding 2 – Stormwater Proposal: The applicant proposes a system consisting of a Stormwater Management, Inc., "Stormfilter Vault" unit to provide water quality treatment for pollution generating surfaces including the 340 feet of new roadway and the widening of NE 92<sup>nd</sup> Street. According to CCC chapter 40.380 (the Stormwater & Erosion Control Ordinance), infiltration of 100-year storm event is the proposed method for stormwater disposal from the developed site. The applicant

proposes to achieve stormwater quantity control through storage provided in two drywells and associated perforated pipe system. The applicant proposes to use one 6' x 12' "Stormwater Vault" unit equipped with 8 filter cartridges to provide water quality treatment.

Finding 3 – Site Conditions and Stormwater Issues: The site generally consists of open field, grass, shrubs, and trees. Site slopes range from approximately 0 to 5%. With the exception of an existing single-family home and one shed, the site is currently undeveloped. The existing home will remain on Lot 2, but the shed and an existing driveway will be removed prior to the construction.

Natural Resource Conservation Service (NRCS, formerly SCS) mapping shows the site to be underlain by 100% Hillsboro soils (HoB), classified by AASHTO as A-4 soils. These soils are also classified as hydrologic soil group "B". The Stormwater and Erosion Control Ordinance, CCC chapter 40.380, lists A-4 soils as unsuitable for infiltration. The applicant has submitted a soil infiltration investigation report prepared by Deep River Geotechnical Services, dated April 7, 2004 (Ex. 8). Limited laboratory grain size analysis has also been performed on soil samples from 3 locations where soil testing was performed in the field. The results of these tests have been used to classify the soil according to the American Association of State Highway and Transportation Officials (AASHTO) classification system. The Report has classified the soils from the 3 test locations as A-3, which is listed in CCC chapter 40.380 as suitable soils for infiltration. The report provides infiltration test results at two locations estimated at 128 inches per hour at T-1 and 180 inches per hour at T-3. The report recommends a design infiltration rate of 50 inches per hour in the sand layer at depths of 10.5 feet to 13.5 feet.

The preliminary stormwater plan indicates that a factor of safety of 2 is used to evaluate the performance of the infiltration bed. The infiltration tests for other developments in this area obtained significantly different results for infiltration rates. Infiltration tests within Avalon Hills (PLD2001-00032) showed the soil infiltration rate of 29.6 inches per hour at a depth of 10.1 feet and 23.9 inches per hour at the depth of 9 feet. Maplegate East (PLD2001-000) showed an infiltration rate of 18.5 inches per hour at a depth of 12.5 feet, 49.5 inches per hour at the depth of 11 feet, and 47.8 inches per hour at the depth of 11.5 feet. Kramer Place (PLD20001-00055) obtained a soil infiltration rate of 24 inches per hour at the depth of 12 to 13 feet.

Staff expressed strong concern about the long-term feasibility of the proposed stormwater infiltration facility (Ex. 14). Grading of the site will have a substantial impact on the physical characteristics of the soil layers and the natural drainage through these soils. As part of a stormwater facility infiltration investigation, Columbia West Engineering, Inc. performed an infiltration investigation for the existing stormwater facility at the Kennedy / Kramer's Place subdivisions. The Kennedy subdivision is located northeast of Kramer's Place and Kramer's Place is located north of the proposed Kramer South Subdivision.

The primary purpose of the infiltration investigation was to respond to Clark County Department of Community Development's request to supplement the previous data with additional updated infiltration information. The infiltration test from four locations in the stormwater facility resulted in an average rate of infiltration of 1.125 inches per hour. The soil test encountered groundwater at elevation of 244.5 feet above mean

sea level. In order to ensure that the proposed stormwater infiltration system will function as designed, the infiltration rate used in the final stormwater analysis shall be verified during the construction of the stormwater facilities. In accordance with CCC 40.380.040(C)(1), the infiltration investigation report shall be prepared by a qualified geotechnical engineer through both approved testing and laboratory testing. See Condition A-18

Groundwater elevations at an approximate depth of 20 to 25 feet below ground surface have been observed by several geotechnical investigations in this area. This is generally consistent with Clark County generalized water table altitude maps showing the groundwater table in this area at an elevation of 240 feet. Groundwater levels may vary seasonally. The infiltration rates do not apply if the ground water table should rise within the depth of the infiltration system. The applicant shall conduct further tests to determine the elevation of the high groundwater table since the groundwater significantly impacts the rate of infiltration. Furthermore, groundwater mounding analysis shall be performed to ensure that increased underground flow due to the excessive infiltration in a short period of time does not adversely impact the properties and/or the proposed lots in low areas. See Condition A-19.

Because the proposed development site is located within a closed depression, the final stormwater plan shall be prepared based on the closed depression analysis performed in accordance with Section III-1.5 of the Stormwater Management for Puget Sound Basin manual. See Condition A-20. Clark County has experienced numerous infiltration system failures in facilities located within Hillsboro silt loams. In case of failure of the proposed infiltration facilities, which has occurred in this area before, the project shall install an emergency overflow structure connected to a suitable point of disposal. The applicant has stated that an overflow pipe would be connected to the existing stormwater detention facility, located northeast of the proposed development and currently serving as the master stormwater facility for Kennedy, Kramer's Place, and Avalon Hills subdivisions. The developer shall secure an agreement with the owners of the existing stormwater facility to allow stormwater runoff from the proposed development. See Condition A-21.

The Four subdivisions in the immediate area (Kramer Place, Kennedy, Avalon Hills and Fairfield) have jointly installed an emergency overflow pipe within the right-of-way of NE 94<sup>th</sup> Street. Staff recommended installing a gravity overflow line to the nearest point of connection to the emergency overflow pipe. The overflow line is under warranty to the developers of four projects and has not gained final acceptance by the county. The developer shall secure an agreement with the developers of Kramer's Place, Kennedy and Avalon Hills subdivisions that installed the existing emergency overflow pipe to the western boundary line of Avalon Hills allowing Kramer Place South to provide another overflow system acceptable to Clark County. The developer shall provide an easement for all portions of this line which cross private property. See Condition A-22. During the construction of the stormwater facility, the infiltration rate used in the preliminary stormwater analysis shall be verified for all locations where infiltration into the ground is proposed. See Condition A-23. Additional land shall be allocated to accommodate a larger stormwater facility, if found to be necessary. See Condition A-24.

The developer shall perform an off-site analysis pursuant to CCC 40.380.040(B)(2) and include information on the capacity of the system receiving stormwater from any emergency outfall pipe that may be required. If required, the report shall be included in the Technical Information Report (T.I.R). See Condition A-25. Based upon the development site characteristics, the proposed stormwater plan, the requirements of the County's stormwater ordinance, and findings above, the Examiner concludes that the proposed preliminary stormwater plan, subject to Conditions A-18 to A-25, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

#### **FIRE PROTECTION:**

Fire Protection Finding 1 – Fire Marshal Review: This application was reviewed by the Fire Marshal's Office, which provided comments and proposed conditions of approval (Ex. 13). This development shall comply with the Fire Marshall's comments and conditions and additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition E-5.

Finding 2 – Building Construction: Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition E-5.

Finding 3 – Fire Flow: Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for a 60-minute duration is required for this application. The required fire flow is available at the site. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. See Condition A-6.

Finding 4 – Fire Hydrants: Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. See Condition A-7.

Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, the applicant shall contact the Vancouver Fire Department at 360-696-8166 to arrange for location approval. The applicant shall provide and maintain a 6-foot clear space completely around every fire hydrant. See Conditions A-8, A-9 and A-10.

Finding 5 – Fire Apparatus Access: Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application meet the requirements of the Clark County Road Standards. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. See Condition A-11.

Finding 6 – Fire Apparatus Turnarounds: Approved fire apparatus turnarounds are required for this project. The applicant shall provide a temporary cul-de-sac turnaround constructed in accordance with the Clark County Road Standards at the south terminus of NE 43<sup>rd</sup> Avenue. See Condition A-12.

#### **WATER & SEWER SERVICE:**

Finding 1 – Connection to Public Sewer and Water: The site will be served by Clark Public Utilities and Hazel Dell Sewer District. Letters from the above districts confirm that services are available to the site. All lots created in this subdivision shall decommission any on-site septic systems and water wells and connect to public sewer and water. See Condition E-4. According to the Utility Review Letter issued by Clark Public Utilities (Ex. 7, tab 13), this project is within the lower pressure limits of their pressure zone. While the minimum state required pressure will be supplied, the potential lot owners should be aware of the potential problem. Therefore, Clark Public Utilities requests that the following note be recorded on the final plat:

*“The water pressure in this area will meet the minimum state requirements. Some lots in this plat are within the lower pressure limits of the water pressure zone with respect to elevation. As adequate pressure is subject to the user, private water boosters are recommended for lots with the lower pressure limit.”*

The Examiner agrees. See Plat Note D-4.

Finding 2 – Health Department Evaluation Letter: Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable “Health Department Final Approval Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). See Condition E-3.

#### **IMPACT FEES:**

Finding 1: The site is located in Battle Ground School District, Parks Improvement District 8 and the Hazel Dell Traffic Impact Fee District. All new homes built on all lots in this development will impose new service demands on the local schools, park facilities and transportation system. Therefore, all new homes in this development (14 of them, which excludes the existing home on the site) shall be subject to a School Impact Fee (SIF), a Park Impact Fee (PIF) and a Traffic Impact Fee (TIF) to help pay the cost of providing new system infrastructure to serve the new demand. Pursuant to CCC chapter 40.610, each of the new single-family dwellings in this subdivision shall be subject to the following impact fees, payable at the time building permits are issued:

- Park Impact Fees: \$1,800 (acquisition: \$1,360 & development: \$440)
- Traffic Impact Fees: \$1,325.92

- School Impact Fees: \$3,000

The impact fees for dwelling units on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following this expiration date shall be recalculated using the then-current regulations and fees schedules. See Condition B-1 and Plat Note D-3.

## **SEPA DETERMINATION**

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on October 20, 2004 (Exs. 16 & 17). No timely appeals and only two comments (Exs. 20 & 21) were received by the comment and appeal deadline of November 3, 2004. These comments from the Department of Ecology and the Southwest Clean Air Agency do not warrant a change to the original SEPA determination, and it is final.

## **V. Decision and Conditions:**

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the applicant's proposal, the preliminary plat (Ex. 5) and the plans and reports associated with this proposal (Ex. 7). This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

### **A. Conditions that shall be met prior to Final Plat approval, or which may with County approval be bonded for and performed prior to building permit issuance according to CCC 40.350.030(C)(4)(i) & (j) and 40.380.040(N):**

- A-1 This subdivision, and the development of all lots within it, shall comply with all dimensional requirements of the R1-6 zone.
- A-2 All accessory structures shall be removed prior to final plat approval. The attached garage on Lot 2 shall either be removed or moved to meet the required setbacks for the R1-6 zone. See Land Use Finding 2.
- A-3 The developer shall submit a landscape plan that provides a minimum 5-foot buffer landscaped to an L3 landscape standard along the southern boundaries of Lots 3, 4, 5, 6, 11, & 12. See Land Use Finding 3.
- A-4 Landscape buffers shall be delineated on the final plat. A covenant running with the land shall be recorded with the final plat that requires the owners of lots containing the required landscape buffers to maintain the landscaping in accordance with the approved final landscape plan. See Land Use Finding 3.

- A- 5 The developer shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,000. The reimbursement shall be made within 60 days following issuance of this decision with evidence of payment presented to staff at Clark County Public Works. See Transportation Concurrency Finding 2.
- A-6 Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. See Fire Protection Finding 3.
- A-7 The developer shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. See Fire Protection Finding 4.
- A-8 Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. See Fire Protection Finding 4.
- A-9 The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, the developer shall contact the Vancouver Fire Department at 360-696-8166 to arrange for location approval. See Fire Protection Finding 4.
- A-10 The developer shall provide and maintain a 6-foot clear space completely around every fire hydrant. See Fire Protection Finding 4.
- A-11 The developer shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. See Fire Protection Finding 5.
- A-12 The developer shall provide a temporary cul-de-sac turnaround constructed in accordance with the Clark County Road Standards at the south terminus of NE 43<sup>rd</sup> Avenue. See Fire Protection Finding 6.
- A-13 The proposed short cul-de-sac shall have attached thickened sidewalk per Standard Plan F18b. See Transportation Finding 2.
- A-14 In accordance with CCC 40.350.030 (B)(9), a temporary turnaround shall be constructed at the terminus of NE 43<sup>rd</sup> Avenue because it is a road that is more than 150 feet in length and temporarily terminates at the property line. See Transportation Finding 3.
- A-15 The proposed curb & gutter shall be constructed according to standard curb type E-1 or A-1 per standard plan F18 or rolled curb and thickened edge sidewalk per standard plan F18b. See Transportation Finding 3.
- A-16 The effort to install a barricade across proposed 92<sup>nd</sup> Street at its western terminus shall be coordinated with the property owners of Tax Lots 1/7 and Lot 3 SP 2-179. The location of the barricade and/or fence shall be reviewed and approved by the County engineering staff and the County Fire Marshal. See Transportation Finding 3.



- A-17 A barricade shall be placed across existing NE 45<sup>th</sup> Avenue, to prevent traffic from using the southern private portion of the road. See Transportation Finding 3.
- A-18 In order to ensure that the proposed stormwater infiltration system will function as designed, the infiltration rate used in the final stormwater analysis shall be verified during the construction of the stormwater facilities. In accordance with CCC 40.380.040(C)(1), the infiltration investigation report shall be prepared by a qualified geotechnical engineer through both approved testing and laboratory testing. See Stormwater Finding 3.
- A-19 The developer shall conduct further tests to determine elevation of high groundwater table to be determined for the final design. Groundwater mounding analysis shall be performed to ensure that increased underground flow due to the excessive infiltration in a short period of time does not adversely impact the properties and/or the proposed lots in low areas. See Stormwater Finding 3.
- A-20 The final stormwater plan shall be prepared based on the closed depression analysis performed in accordance with Section III-1.5 of the Stormwater Management for Puget Sound Basin manual. See Stormwater Finding 3.
- A-21 The developer shall secure an agreement with the owners of the existing stormwater facility to allow stormwater runoff from the proposed development. See Stormwater Finding 3.
- A-22 The developer shall secure an agreement with the developers of Kramer's Place, Kennedy and Avalon Hills subdivisions that installed the existing emergency overflow pipe to the western boundary line of Avalon Hills allowing Kramer Place South to provide another overflow system acceptable to Clark County. The developer shall provide an easement for all portions of this line which cross private property. See Stormwater Finding 3.
- A-23 During the construction of the stormwater facility, the infiltration rate used in the preliminary stormwater analysis shall be verified for all locations where infiltration into the ground is proposed. See Stormwater Finding 3.
- A-24 Additional land shall be allocated to accommodate a larger stormwater facility, if found necessary. See Stormwater Finding 3.
- A-25 Pursuant to CCC 40.380.040(B)(2), the developer shall perform an off-site stormwater capacity analysis and include information on the capacity of the system receiving stormwater from any emergency outfall pipe which may be required. If required, the report shall be included in the Technical Information Report (TIR). See Stormwater Finding 3.
- A-26 The developer shall dedicate sufficient right-of-way and construct improvements to NE 92<sup>nd</sup> Street, NE 44<sup>th</sup> Court and NE 43<sup>rd</sup> Avenue to bring these streets up to the following planned capacities and standards (see Transportation Finding 2):
- a) NE 92<sup>nd</sup> Street, according to Standard Drawing #14:

- minimum half-width right-of-way of 23 feet;
- minimum roadway pavement of 14 feet;
- curb & gutter;
- minimum sidewalk width of 5 feet.

b) NE 43<sup>rd</sup> Avenue, according to Standard Drawing #14:

- minimum right-of-way 46 feet;
- minimum roadway pavement of 28 feet;
- curb & gutter;
- minimum sidewalk width of 5 feet on both sides.

c) NE 44<sup>th</sup> Court (short cul-de-sac), according to Standard Drawing #29:

- minimum right-of-way 42 feet;
- minimum roadway pavement of 24 feet;
- rolled curb & gutter AND attached thickened sidewalk per Standard Plan F18b,
- minimum sidewalk width of 5 feet.

**B. The following conditions shall be met prior to issuance of Building Permits:**

B-1 Impact Fees: Pursuant to CCC chapter 40.610, all new single-family dwelling units in this development (14 of them, which provides credit for the 2 existing homes on the site) shall pay the following single-family impact fees at the time building permits are issued:

1. \$1,800 PIF (consisting of \$1,360 for acquisition, and \$440 for development) per new single-family dwelling in Park District 8;
2. \$3,000 SIF per new single-family dwelling in the Battle Ground School District; and
3. \$1,325.92 TIF per new single-family dwelling in Hazel Dell Traffic Impact fee district.

The impact fees for dwelling units on this plat shall be fixed for a period of 3 years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following this expiration date shall be recalculated using the then-current regulations and fees schedules.” See Impact Fees Finding 1 and Plat Note D-3.

B-2 Prior to issuance of any building or grading permits for the development site, the developer shall obtain written approval from Clark County Department of Public Works of the developer's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system. See Transportation Concurrency Finding 5.

B-3 Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. See Fire Protection Finding 2.

**C. The following conditions shall be met prior to issuance of Occupancy Permits**

- C-1 The required landscaping shall be installed prior to issuance of each occupancy permit for Lots 3, 4, 5, 6, 11, & 12. See Land Use Finding 3.

**D. The following notes shall be placed on the final plat:**

- D-1 Archaeological: "If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- D-2 Mobile Homes: "Placement of Mobile Homes is prohibited."
- D-3 Impact Fees: "In accordance with CCC chapter 40.610, School, Park and Traffic Impact Fees shall be paid for all new dwelling units constructed in this development. Each new single-family dwelling shall be subject to the following impact fees at the time of building permit issuance: \$3,000 SIF per new single-family dwelling in the Battle Ground School District, \$1,800 PIF (consisting of \$1,360 for acquisition and \$440 for development) per new single-family dwelling in Park District 8), and \$1,325.92 TIF per new single-family dwelling in Hazel Dell Traffic Impact fee district. The impact fees for dwelling units on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following this expiration date shall be recalculated using the then-current regulations and fees schedule."
- D-4 Water Pressure: "The water pressure in this area will meet the minimum state requirements. Some lots in this plat are within the lower pressure limits of the water pressure zone with respect to elevation. As adequate pressure is subject to the user, private water boosters are recommended for lots with the lower pressure limit."
- D-5 Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also a sidewalk easement as necessary to comply with ADA slope requirements upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- D-6 Land Within Wellhead Protection Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

- D-7 Land Within Wellhead Protection Areas: "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- D-8 Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- D-9 Private Roads: "Clark County has no responsibility to improving or maintaining private roads contained within or private roads providing access to this site, and each lot owner having access to a private road must participate in a private maintenance agreement."
- D-10 Privately Owned Stormwater Facilities: "The following parties are responsible for long-term maintenance of the privately owned stormwater facilities: Kimball Hill Homes."
- D-11 Garage Set-back Variance: "Front yard setbacks for Lots 11 and 12 may be as low as 11.25 feet from the garage front to the curb."

**E. Standard Conditions that shall be met:**

- E-1 Land Division: Within 5 years of the effective date of this decision, the developer shall submit to the Planning Director a fully complete final plat consistent with CCC 40.540.070 and the requirements of this preliminary plat approval. Otherwise, this preliminary plat approval shall be null and void.
- E-2 Landscaping Plans: Prior to recording the final plat, the developer shall submit a copy of the approved landscape plan(s) for any public right-of-way (if applicable) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.
- E-3 Water and Septic Systems: Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Well/Septic Abandonment Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county, e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy. See Water & Sewer Finding 1.
- E-4 Abandonment of well and septic system, connection to public systems: Any existing wells or septic systems shall be decommissioned by a suitably qualified professional. The developer shall submit an acceptable "Health Department Final Approval Letter" to the county at the time specified in the evaluation letter. The homes in this development shall be connected to public water and sewer services and the developer shall comply with all requirements of the sewer and water purveyors. See Water & Sewer Finding 2.

- E-5 Fire Protection: Building construction occurring subsequent to this application shall comply with the Fire Marshall's comments (Ex. 13) and the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Fire Protection Finding 2.
- E-6 Fire Protection: All driveways shall comply with the Transportation Standards and the requirements of the Fire Marshal. The Fire Marshal's requirements shall take precedence when they are more stringent than the Transportation Standards. See Transportation Finding 5.
- E-7 Pre-Construction Conference: Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- E-8 Erosion Control: Prior to construction, the developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.380.
- E-9 Erosion Control: A copy of the approved erosion control plan shall be submitted to the Chief Building Official prior to final plat recording.
- E-10 Erosion Control: Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- E-11 Erosion Control: Erosion control facilities shall not be removed without County approval.
- E-12 Excavation and Grading: Excavation/grading shall be performed in compliance with Appendix Chapter 33 of the Uniform Building Code (UBC).
- E-13 Excavation and Grading: Site excavation/grading shall be accomplished, and drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.
- E-14 Transportation: Prior to construction, the developer shall submit and obtain County approval of final transportation design plans in conformance with CCC chapter 40.350.
- E-15 Stormwater: Prior to construction, the developer shall submit and obtain County approval of a final stormwater design plan in conformance with CCC chapter 40.380.

**Date of Decision**: November, \_\_\_\_, 2004.

By: \_\_\_\_\_  
Daniel Kearns,  
Land Use Hearings Examiner

**NOTE:** Only the Decision and Conditions of approval are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

### **Notice of Appeal Rights**

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 40.510.030(H)(3)(b); and
5. A check in the amount of \$279.00 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.